

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Application of Pacific Gas and Electric Company for Approval of Valuation and Categorization of Non-Nuclear Generation-Related Sunk Costs Eligible for Recovery in the Competition Transition Charge))))))) -----)	Application 96-08-001 (Filed August 1, 1996)
Application of San Diego Gas & Electric Company to Identify and Value the Sunk Costs of its Non-Nuclear Generation Assets)))) -----)	Application 96-08-006 (Filed August 1, 1996)
Application of Southern California Edison Company to Identify and Value the Sunk Costs of its Non-Nuclear Generation Assets, in Compliance with Ordering Paragraph No. 25 of D.95-12-063 (as modified by D.96-01-009 and D.96-03-022)))))))) -----)	Application 96-08-007 (Filed August 1, 1996)
Application of Pacific Gas and Electric Company To Establish the Competition Transition Charge)))) -----)	Application 96-08-070 (Filed August 30, 1996)
In the Matter of the Application of Southern California Edison Company to estimate its Transition Costs as of January 1, 1998 in Compliance with Ordering Paragraph 26 of D.95-12-063 (as modified by D.96-01-009 and D.96-03-022), and related changes))))))) -----)	Application 96-08-071 (Filed August 30, 1996)
Application of San Diego Gas & Electric Company to Estimate Transition Costs and to Establish a Transition Cost Balancing Account)))) -----)	Application 96-08-072 (Filed August 30, 1996)

OPENING BRIEF OF THE CALIFORNIA ENERGY COMMISSION ON PHASE 1A DEFINITIONAL ISSUES

In response to the Joint Assigned Commissioner's and Administrative Law Judge's Ruling Establishing Schedule for Transition Cost Proceeding of October 11, 1996, (Ruling), the California Energy Commission (CEC) submits its Phase 1A Opening Brief to assist the California Public Utilities Commission (CPUC) to "identify threshold eligibility issues" relating to Competition Transition Cost (CTC) recovery.

Specifically, the Ruling requests participating parties to:

identify and discuss with specificity the policy implications of AB 1890 and the Preferred Policy Decision . . . [and, in addition, to] define the . . . terms: net book value, sunk costs, obligations and regulatory obligations. [Ruling at p. 6.]

Below, the CEC offers definitions for these terms that are consistent with AB 1890, notes additional cost categories approved for CTC recovery in AB 1890, and identifies cost categories included in the utilities' sunk cost and CTC applications that should not be eligible for CTC recovery, or whose eligibility should be subject to future reasonableness review.

I. DEFINITIONS

A. SUNK COSTS. Sunk costs are costs incurred in the past, in contrast to incremental and imputed costs. Such costs appear in accounting records, but are irrelevant for the future operating decisions of the company. The CEC agrees with the Office of Ratepayer Advocates (ORA) that this term should be equated with "net book value," discussed below.

B. NET BOOK VALUE OF GENERATION PLANT. The CPUC in its Policy Decision defined net book value as:

the original costs recorded in the company's books for a particular asset less any accumulated depreciation and adjusted for deferred taxes, and any other assets or liability account which relates to the asset. [Policy Decision at p. 114, fn. 41.]

These costs are already approved, are included in the rate base, have been audited and have been categorized in previous rate cases as generation-related. This definition is fully consistent with newly enacted Public Utilities Code § 367, which requires the CPUC to identify "costs for generation-related assets . . . , that were being collected in commission-approved rates on December 20, 1995." See also Cal. Pub. Util. Code §§ 330(s) and 840(f)(same). (All references to sections of the California Public Utilities Code cited herein were enacted as part of AB 1890.)

Unless explicitly authorized in AB 1890 or, eligible for recovery as an "obligation" or "regulatory obligation," no going forward fossil generation-related costs should be included in the CTC.

C. OBLIGATIONS. Obligations are long-lasting agreements or contracts between the utility and another institution that can generate costs and credits. Generation-related obligations include:

unavoidable commitments directly related to generation, including nonplant physical assets and contracts for plant parts or services and for fuel or fuel transport. [Policy Decision at p. 114.]

Again, this is fully consistent with § 367, which requires the CPUC to identify "costs for generation-related . . . obligations . . . , that were being collected in commission-approved rates on December 20, 1995." See also Cal. Pub. Util. Code §§ 330(s) and 840(f)(same). Thus, the CEC believes that any fossil generation-related obligation that

has been found reasonable and approved by the CPUC before December 20, 1995 should be recoverable. Recovery for fossil generation-related obligations that accrue after December 20, 1995, should be allowed only if those costs are authorized in AB 1890.

D. REGULATORY OBLIGATIONS. These are future unavoidable expenses or deferred costs which accrued under cost-of-service regulation. These obligations and related costs have been approved by the CPUC during rate cases. The CPUC offers the following examples:

deferred operating expenses, deferred taxes, unamortized loss from sale of assets, unamortized debt expense, costs associated with issuing and retiring debt, [Policy Decision at p. 133.]

This definition is also consistent with AB 1890. Section 367 authorizes CTC recovery for "generation-related regulatory assets"

II. OTHER COST CATEGORIES ELIGIBLE FOR CTC RECOVERY

AB 1890 allows certain future costs incurred after December 20, 1995 to be included in the CTC. Specifically, the preamble to Cal. Pub. Util. Code § 367 allows the following costs to be included in the CTC:

appropriate costs incurred after December 20, 1995, for capital additions to generating facilities existing as of December 20, 1995, that the commission determines are reasonable and should be recovered, provided that these additions are necessary to maintain the facilities through December 31, 2001.

See also Cal. Pub. Util. Code §§ 330(s) and 840(f). More importantly, § 367(c) limits the CTC the total amount of CTC recovery for utility-owned fossil generation to the

uneconomic portion of the net book value of the fossil capital investment existing as of January 1, 1998, and appropriate costs incurred after December 20, 1995, for capital additions to generating facilities existing as of December 20, 1995, that the commission determines are reasonable and should be recovered, provided that the additions are necessary to maintain such facilities through December 31, 2001.

Section 367(c) further provides that:

All "going forward costs" of fossil plant operation, including operation and maintenance, administrative and general, fuel and fuel transportation costs, shall be recovered solely from independent Power Exchange Revenues, or from contracts with the Independent System Operator,

[Emphasis added.]

Exceptions include, for PG&E, CPUC approved costs for fossil plants needed to maintain reactive power and/or voltage support deemed necessary by the ISO, and for Edison, the uneconomic portion of fixed costs under fuel and fuel transportation contracts executed prior to December 20, 1995.

Except for the above two exceptions, future fossil generation-related costs, as defined by § 367, are strictly limited, to appropriate capital additions, necessary to maintain the facility through December 31, 2001, which the CPUC determines are reasonable.

Other future costs allowed by AB 1890 include: reasonable costs of early retirement or severance (§ 375); approved power purchase contracts, including settlements (§ 367); nuclear decommissioning (§ 367); BRPU buyout costs for Edison (§ 367); SONGS Incremental Cost Incentive Program (§ 367); and CPUC approved restructuring implementation costs not recovered through FERC tariffs (§ 376).

The CEC believes that the IOUs should provide reasonable estimates of these future costs for purposes of estimating the magnitude of the CTC but future costs should not

be considered eligible for CTC recovery until incurred and deemed reasonable and necessary by the CPUC.

III. COST CATEGORIES THAT DO NOT MEET CTC ELIGIBILITY DEFINITIONS

The CEC believes that contentious cost category issues are of two types: (1) distinguishing generation-related assets from non- generation-related assets and, (2) future costs. Below, the CEC identifies several cost categories that should be excluded from the CTC. This list of cost categories is not intended to be comprehensive. The CEC reserves the opportunity to address these and other cost issues in Phase 2 of this proceeding.

A. NON-GENERATION-RELATED COSTS

The CEC maintains that the following cost categories identified by the IOUs as generation-related are not eligible for CTC recovery.

1. Step up Transformers and Generation Ties. Although some of these expenses may technically be considered generation-related because they exist only to transmit power from the facility to the grid, traditionally these assets have been classified as transmission assets and should remain so for purposes of calculating the CTC.
2. Materials and Supplies Inventory. Most materials and supplies have a short life and should be exhausted by the end of 2002. Hence those can be considered operating expenses, and as such should be recovered through the market.

B. FUTURE COSTS

The following future costs should be excluded from the CTC and/or subject to CPUC reasonableness review in accordance with Cal. Pub. Util. Code § 367.

1. Construction Work in Progress and Retirement Work in Progress. Since most of the expenses in these categories have not been determined to be reasonable by the CPUC and are not included in rates, they should be treated as future costs subject to reasonableness review by the CPUC.

2. Non-nuclear Decommissioning. Most decommissioning costs are approximate estimates of potential future clean-up costs. They should be treated as future costs, as opposed to existing sunk costs. Only decommissioning costs actually anticipated to be incurred during the window authorized by AB 1890 should be included in the CTC estimate. For any decommissioning costs to actually be included in the CTC, they must be incurred during the transition period and approved by the CPUC.

For example, Edison's proposal in its Amended Application for CTC, Fossil Generation Book Net Value and Rate Base, page 7, that expenses for asbestos removal to comply with environmental regulations (for all maintenance projects under \$1,000,000, as long as, the total of those do not exceed the net book value of fossil plant as of December 31, 1995) be "presumed reasonable" and included in the CTC. The costs, and the reasonableness of the costs, should not be presumed.

3. Environmental Upgrades. PG&E on page 3-8 of its Prepared Testimony to the Amended Application for CTC, asserts that AB 1890 allows CTC recovery of all fossil generation investments in 1996 and 1997 including NOx retrofits without reasonableness review. The CEC disagrees. After 1998, PG&E also proposes to collect any NOx retrofits for plants needed for reliability through contracts with the ISO and for other plants through the Power Exchange. The CEC thinks this approach,

which should apply to all environmental retrofits, i.e. not just NOx retrofits, is reasonable and consistent with the CPUC's Policy Decision.

4. Hydro relicensing. These costs should be excluded from the CTC because they have not yet been incurred and approved. Further, any hydro relicensing expense will be taken into account in the valuation process or during the Performance Based Ratemaking (PBR) process.

5. Biennial Resource Plan Update. Newly enacted Pub. Util. Code § 367(a)(3) indicates that some BRPU settlement agreements may be eligible for CTC recovery. Specifically, § 367(a)(3) provides:

Costs associated with contracts approved by the commission to settle issues associated with the Biennial Resource Plan Update may be collected through March 21, 2002; provided that only 80 percent of the balance of the costs remaining after December 31, 2001, shall be eligible for recovery.

Edison contends that the costs associated with BRPU are "fully recoverable" through the CTC. (Edison's October 21, 1996 Amended CTC Application, "Transition Costs Arising from QF Obligations" at p. 10.) Although PG&E did not include any BRPU costs in its transition cost application, it reserved the right to ask for those costs later in the proceedings. The CEC maintains that these costs should be submitted to the CPUC for a reasonableness review prior to inclusion in the CTC.

6. Future Capital Additions. Edison, for example, projects oil/gas and coal capital additions for 1996 of \$35.2 and \$21.2 million and for 1997 of \$69.5 and \$9.0 million. SDG&E is proposing in its Amended Application for CTC Pages I20-I33 of Prepared Testimony no reasonableness review and a spending cap of \$3.5 million/year for capital additions of less than \$200,000 and reasonableness review for additions above \$200,000. We believe that any capital addition should be reviewed for

reasonableness, including any investments for retrofit controls under the Air Pollution Control District (APCD) rules.

7. Fuel and Purchased Power Contracts. There are currently some contracts which have been approved by the CPUC with some minimum purchase requirements. Any purchases above those minimum requirements should not be eligible for cost recovery in the CTC. Long-term gas and coal contracts identified by Edison in Tables II-1 and II-2, pages 5 and 10 of its October 21, 1996 Amended Application for CTC, Fuel and Fuel Transportation Contract Obligations, should be reviewed applying such criteria.

IV. CONCLUSION

AB 1890 provides the general framework for terms and conditions of the application of the CTC. However, as some parties have noted, there are many areas that are open to interpretation or left to the discretion of the CPUC. In these gray areas, we believe that the CPUC should use narrow definitions provided they are consistent with AB 1890 and prior CPUC practice. In particular the following expenses should not be included in the transition costs, although some future costs may ultimately allowable upon approval of the CPUC:

1. Generation-related Transmission Assets

PG&E (end of 1997)

Type	(000s)	Source:	Amended CTC Application Oct. 21, 1996
Fossil	\$103,478	Table 3-1, p. 3-36	
Hydro (w/o Helms)	\$ 58,992	Table 3-12, p. 3-47	
Helms	\$ 85,233	Table 3-12, p. 3-48	
Geothermal	<u>\$ 18,003</u>	Table 3-13, p. 3-49	
Subtotal	\$265,706		

SCE (end of 1997)

Type	(000s)	Source:	Amended CTC Application Oct. 21, 1996
Fossil	\$ 48,728	Table II-1	SCE-8, p. 15
Hydro	\$ 0	Table V-1	SCE-9, P. 10
Subtotal	\$ 48,728		

SDG&E (end of 1995)

Type	(000s)	Source:	Amended CTC Prepared Direct Testimony, Oct. 21, 1996
Subtotal	\$ 5,772	Appendix A	p. A-1

2. Materials and Supplies

PG&E (end of 1997)

Type	(000s)	Source:	Amended CTC Application Oct. 21, 1996
Fossil	\$ 10,456	Table 3-1,	p. 3-36
Hydro (w/o Helms)	\$ 383	Table 3-12,	p. 3-47
Helms	\$ 720	Table 3-12,	p. 3-48
Geothermal	\$ 2,388	Table 3-13,	p. 3-49
Subtotal	\$ 13,947		

SCE (end of 1997)

Type	(000s)	Source:	Amended CTC Application Oct. 21, 1996
Fossil	\$ 39,387	Table II-1	SCE-8, p. 15
Subtotal	\$ 39,387		

SDG&E (end of 1995)

Type	(000s)	Source:	Amended CTC Prepared Direct Testimony, Oct. 21, 1996
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Subtotal	\$ 10,635	Appendix A	p. A-1
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3. Construction Work and Retirement Work in Progress

SCE (end of 1997)

Type	(000s)	Source:	Amended CTC Application Oct. 21, 1996
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Fossil	\$ 65,440	Table II-1 SCE-8, p. 15
Subtotal	\$ 65,440	

SDG&E (end of 1995)

Type	(000s)	Source:	Amended CTC Prepared Direct Testimony, Oct. 21, 1996
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Subtotal	\$20,171	Appendix A	p. A-1
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4. Non-nuclear Decommissioning

PG&E (end of 1997)

Type	(000s)	Source:	Amended CTC Application Oct. 21, 1996
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Fossil	\$405,625	Table 3-10, p. 3-45
Geothermal	\$ 27,538	Table 3-26, p. 3-64
Subtotal	\$433,163	

SCE (end of 1997)

Type	(000s)	Source:	Amended CTC Application Oct. 21, 1996
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Fossil	<u>\$383,758</u>	Table II-1 SCE-8, p. 15
Subtotal	\$383,758	

SDG&E (end of 1995)

Type	(000s)	Source:	Amended CTC Prepared Direct Testimony, Oct. 21, 1996
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Subtotal	\$90,404	Appendix A p. A-1
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5. Air Pollution Retrofits

PG&E (end of 1997)

Type	(000s)	Source:	Sunk Cost Application Aug. 1, 1996
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Fossil	<u>\$ 34,685</u>	Table 5-5 page 5-35
Subtotal	\$ 34,685	

SCE (end of 1997)

Type	(000s)	Source:	Amended CTC Application Oct. 21, 1996
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Fossil	<u>\$ 15,128</u>	Table II-1 SCE-8, p. 15
Subtotal	\$ 15,128	

SDG&E (end of 1995)

Type	(000s)	Source:	Amended CTC Application Oct. 21, 1996
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Fossil	<u>\$ 7,790</u>	Appendix A p. A-1
Subtotal	\$ 7,790	

6. Capital Additions

PG&E (end of 1997)

Type	(000s)	Source:	Amended CTC Application Workpapers Oct 21, 1996
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Fossil,Hydro, Geothermal and Environmental	<u>\$303,549</u>	Page 3-293
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Subtotal	\$303,549	
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SCE (end of 1997)

Type	(000s)	Source:	Amended CTC Application Oct. 21, 1996
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Fossil	<u>\$134,939</u>	Table II-2 SCE-8, p.18-19
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Subtotal	\$134,939	
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SDG&E (end of 1995)

Type	(000s)	Source:	Amended CTC Application Oct, 21, 1996
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Fossil	<u>\$ 14,564</u>	Appendix A p. A-1
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Subtotal	\$ 14,564	
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7. Totals (000s)

PG&E	\$1,051,050
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SCE	\$ 687,380
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SDG&E	\$ 149,336
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Respectfully submitted,

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